

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3851 of 1986

Date of decision: 10-3-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J.R. VASAVA

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioners

None present for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10-3-98

CAV JUDGEMENT

Heard the learned counsel for the petitioners, and perused the special civil application and the affidavit filed today.

All the petitioners belong to Scheduled Tribe. They were included in the select list for the post of Sales Tax Officer Class-I, prepared by the respondents in the month of June, 1984. Under circular of the Government dated 10th June, 1986 the aforesaid select list was directed to be cancelled. However, despite the aforesaid circular and cancellation of the select list two of the candidates who were included in the aforesaid select list were given promotion to the post of Sales Tax Officer Class I some time in the month of July, 1986. The petitioners filed this special civil application and prayer has been made for direction to the respondents to operate the select list.

2. This Court, on 14th August granted interim relief in terms of para 15(G), which reads as under:

"15(G): to issue an interim mandatory direction to the respondents No.1 and 2 to promote the petitioners as Sales Tax Officers Class I pending the hearing and final disposal of this petition."

Though interim relief which has been granted by this Court has been taken up by the respondent in appeal, the appeal came to be dismissed in January, 1987. But the petitioners stated in the further affidavit filed in the court now that the petitioners were promoted as Sales Tax Officer Class I on 4-5-1987, subject to the result of this petition. It is the case of the petitioners in the said affidavit that the interim order which has been passed by this court was not given effect to, but they were promoted in due course along with other officers who were included in the same select list. The petitioners further came to be promoted in the regular course as Asst. Commissioners of Sales Tax. Now what the petitioners state is that they are entitled to deemed date of promotion, and in support of this contention learned counsel for the petitioner has made reference to the decision of this court in special civil application No.4974 of 1984 decided on 21-7-1997.

3. The fact that the petitioners have been given promotion to the post of Sales Tax Officers Class I as well as next higher post of Assistant Commissioner of Sales Tax, now the only claim which remains is about giving them deemed date of promotion on these two posts. For this relief the appropriate course would have been

for the petitioner now to approach the respondent State by filing representation. They may also produce along with the said representation copy of the order of this court dated 14th August, 1986 as well as decision of this court on which reliance is placed by the learned counsel for the petitioners. If such representation is made, it is expected of respondent No.1 to consider the same in accordance with law, within reasonable period, say within three months from the date of receipt of the representation, after giving the petitioner an opportunity of hearing.

4. In the result the special civil application is disposed of in terms that in respect of their claim for deemed date promotion to the posts of Sales Tax Officer Class I as well as Asst. Commissioner of Sales Tax, the petitioners may submit representation to the State Government within fifteen days from the date of receipt copy of this order, and in case such representation is made, then respondent No.1 shall decide the same in accordance with law within three months from the date of receipt thereof, after affording an opportunity of hearing to the petitioners. In case the grievance of the petitioners is accepted, they shall be given deemed date of promotion and consequential benefits in accordance with law. If the grievance of the petitioners regarding deemed date of promotion is not accepted, then a reasoned order may be passed and copy thereof shall be sent to the petitioners by registered post A.D. While deciding the matter the respondents shall consider the order of this Court dated 14th August, 1986 passed in this case as well as the decision of this Court in the case of Bharatsinh K. Damor vs. State of Gujarat (Special Civil Application No.4974 of 1984 decided on 21-7-97). The petition and rule stand disposed of accordingly. No order as to costs.

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